

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 DEBORAH ANN COLUMBI, *et al.*,

10 Plaintiffs,

11 v.

12 STEWART MCCULLUM, *et al.*,

13 Defendants.
14

Case No. C18-778RSL

ORDER OF REMAND AND
DISMISSAL

15 This matter comes before the Court on a “Motion to Remand to State Superior Court,”
16 Dkt. # 3, filed by defendant Stewart McCullum,¹ and on a “Motion to Dismiss,” Dkt. # 10, filed
17 by defendants Judge John McHale and Judge Helen Halpert.

18 This complaint appears to stem from a nonjudicial foreclosure sale of a house in Seattle,
19 WA. The papers attached to plaintiffs’ removal are difficult to discern, see Dkt. # 1, but it
20 appears plaintiffs removed this matter prior to a show cause hearing related to ejectment
21 proceedings following the foreclosure sale of their house, see Dkt. # 3 at 2.

22 Defendant McCollum, the purchaser of the foreclosed property, filed a motion to remand
23 challenging this Court’s jurisdiction to hear the case. Dkt. # 3. The party seeking a federal venue
24 has the burden of establishing the Court’s subject-matter jurisdiction. In re Dynamic Random
25

26 ¹ Given the strange form of this case’s removal filings, see Dkt. # 1, it is unclear which
27 parties are plaintiffs and which are defendants, because the removal does not clearly refer back to the
28 apparent state proceedings. For purposes of this order, the Court refers to the parties who initiated the
federal action—*i.e.*, Deborah Ann Columbi and David Gregory Willenborg—as the plaintiffs.

1 Access Memory (DRAM) Antitrust Litig., 546 F.3d 981, 984 (9th Cir. 2008). The general
2 removal statute, 28 U.S.C. § 1441, is construed restrictively, meaning if there is substantial
3 doubt whether a case should be in federal court, the Court will remand the case back to state
4 court. See, e.g., Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 108–09 (1941); Durham v.
5 Lockheed Martin Corp., 445 F.3d 1247, 1252 (9th Cir. 2006). The removing party has the
6 burden of proving by a preponderance of the evidence that removal is appropriate under the
7 statute. In re DRAM Antitrust Litig., 546 F.3d at 984. This matter appears to be based on an
8 underlying property dispute that is entirely a matter of state law. The removal documents
9 obliquely invoke some language that sounds in federal and constitutional law, but these
10 invocations are not sufficient to meet plaintiffs’ burden of demonstrating federal jurisdiction.
11 See id. For that reason, the Court concludes that remand is proper.

12 In their removal, plaintiffs also include the names of several other parties—some of
13 whom appear to be related in some way to the underlying foreclosure proceedings. Those
14 include Judge John McHale and Judge Helen Halpert, both of whom are King County Superior
15 Court Judges.² They filed a motion to dismiss for failure to state a claim. Dkt. # 10. “To survive
16 a motion to dismiss, a [pleading] must contain sufficient factual matter, accepted as true, to state
17 a claim to relief that is plausible on its face.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (marks
18 and citation omitted). “A claim has facial plausibility when the plaintiff pleads factual content
19 that allows the court to draw the reasonable inference that the defendant is liable for the
20 misconduct alleged.” Id. Plaintiffs’ removal filings, insofar as they allege wrongdoing on the
21 parts of Judges McHale and Halpert, do not meet that standard. It is unclear what violations
22 plaintiffs allege, and they do not plausibly plead facts to support those violations. The Court
23 accordingly concludes that dismissal is warranted.

24
25
26 ² The removal filings also mention Deutsche Bank Americas, “CLEAR-RECON-CORP,”
27 the United States, and someone named Jill Higgins. See Dkt. # 1. Whatever plaintiffs intended by
28 writing those words on the removal filings, it is not sufficient to add those potential entities as parties to
this case.

1 For the foregoing reasons, defendant McCollum's motion for remand, Dkt. # 3, is
2 GRANTED. Remanded matters usually face a 14-day waiting period before taking effect, see
3 LCR 3(i), but the Court concludes that period is unnecessary and that this matter should be
4 remanded upon this Order's filing.³

5 The remaining defendants' motion to dismiss, Dkt. # 10, is GRANTED. Insofar as
6 plaintiffs' removal filings allege remaining claims, those claims are hereby DISMISSED.

7 DATED this 6th day of August, 2018.

8
9
10 

11 Robert S. Lasnik
12 United States District Judge
13
14
15
16
17
18
19
20
21
22
23
24
25
26

27 ³ Defendant McCollum sought costs and fees in his motion, but did not file documentation
28 as the motion stated he would. See Dkt. # 3 at 6 n.1. For that reason, his request is denied.